

Attorney's Docket No. **5175-150**

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Hebrank et al.

Serial No.: 10/621,170

Confirmation No. 3527

Filed: July 16, 2003

Group Art Unit: 3643

For: **SYSTEMS AND METHODS FOR RAPIDLY AND ACCURATELY
IDENTIFYING LIVE EGGS WITHIN A STREAM OF EGGS**

October 23, 2003

Office of Patent Legal Administration
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO ACCORD THE PROPER FILING DATE

Sir:

As set forth in 37 CFR § 1.10(c) and MPEP § 506.02, Applicant hereby petitions to grant the proper filing date of **July 16, 2003** rather than July 17, 2003 for the above-identified patent application as this was the date the application was deposited as "Express Mail" in the U.S. Postal Service. The following is enclosed as evidence of **July 16, 2003** being the correct filing date for the application which was properly filed under 37 C.F.R. § 1.10:

1. A true and accurate copy of the Cover Sheet for the Application showing the Certificate of Express Mail on Page 2.
2. A true and accurate copy of the Express Mail Receipt marked by the United States Postal Service ("USPS") as a "date-in" or deposit date with the USPS on July 16, 2003.
3. A true and accurate copy of the Track & Confirm from the United States Postal Service website (www.usps.com) indicating receipt of the Express Mail package at the Post Office on July 16, 2003 and delivery of the package at the USPTO on July 17, 2003; and
4. A true and accurate copy of our return post card sent by the United States Patent and Trademark Office, showing that Applicant was improperly given the filing date of July 17, 2003 instead of the Express Mail date of July 16, 2003.

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Page 2

This petition is being filed promptly after Applicant became aware of the improperly accorded filing date. Accordingly, Applicant respectfully requests the granting of **July 16, 2003** as the filing date pursuant to 37 CFR § 1.10.

On the basis that Applicant properly followed the requirements of 37 CFR § 1.10 and the USPTO failed to accord the proper filing date under MPEP § 505 and thus the need to file this petition is due to error on the part of the USPTO, it is applicant's belief that no fee is due with this petition. However, the Commissioner is authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-0220.

Respectfully submitted,

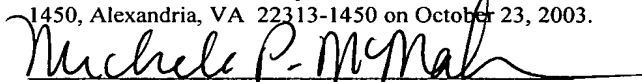


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Michele P. McMahan



①
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ATTY DOCKET NO.: 5175-150

DATE: July 16, 2003

**UTILITY PATENT APPLICATION TRANSMITTAL LETTER
AND FEE TRANSMITTAL FORM (37 CFR § 1.53(b))**

Mail Stop PATENT APPLICATION

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Transmitted herewith for filing under 37 CFR § 1.53(b) is:

- ☒ a patent application
☐ a Continuation ☐ a Divisional ☐ a Continuation-in-Part (CIP) Application of prior application no.: _____; filed _____, the disclosure of which is incorporated herein by reference in its entirety.
☒ and claims the benefit of Provisional Application No. 60/417,003; filed October 08, 2002.

Inventor(s) or Application Identifier:

John H. Hebrank, Durham, North Carolina;

Thomas Bryan, Raleigh, North Carolina

Entitled: **SYSTEMS AND METHODS FOR RAPIDLY AND ACCURATELY
IDENTIFYING LIVE EGGS WITHIN A STREAM OF EGGS**

Correspondence Address:



20792

PATENT TRADEMARK OFFICE

Enclosed are:

1. ☒ Application Transmittal Letter and Fee Transmittal Form (*A duplicate is enclosed for fee processing*)
2. ☒ 32 pages of Specification (including 30 claims)
3. ☒ 9 sheets of Formal Drawings (35 USC 113)
4. ☐ Oath or Declaration
 - a. ☐ newly executed (*original or copy*)
 - b. ☐ copy from prior application (37 CFR 1.63(d) (*for continuation/divisional*) [Note Box 6 Below]
 - c. ☐ DELETION OF INVENTOR(S) (*Signed statement deleting inventor(s) named in the prior application*)
5. ☐ Application Data Sheet. See 37 CFR 1.76
6. ☐ Incorporation By Reference (*useable if box 4b is checked*)

The entire disclosure of the prior application, from which a copy of the oath or declaration is supplied under Box 4b, is considered as being part of the disclosure of the accompanying application and is hereby incorporated by reference therein.

7. ☐ Microfiche Computer Program (*Appendix*)
 8. ☐ Assignment papers (*cover sheet(s) and document(s)*)
 9. ☐ Applicant claims small entity status. See 37 CFR § 1.27.
 10. ☒ Information Disclosure Statement, PTO-1449, and 33 references cited
 11. ☐ Preliminary Amendment (*Please enter all claim amendments prior to calculating the filing fee.*)
 12. ☐ English Translation Document
 13. ☐ Certified Copy of Application No. ; Filed
 14. ☐ Sequence Listing/ Sequence Listing Diskette
 - a. ☐ computer readable copy
 - b. ☐ paper copy
 - c. ☐ statement in support
 15. ☐ An Associate Power of Attorney
 16. ☒ Return Receipt Postcard (MPEP 503) (*Should be specifically itemized*)
 17. ☒ Other: Application Filed Under 37 C.F.R. §1.41(c)
- The fee has been calculated as shown below:

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<input type="checkbox"/> MULTIPLE Dependent Claims Presented			+ 140 = \$	+ 280 = \$
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- ☐ Please charge my Deposit Account No. 50-0220 in the amount of \$
- ☒ The Commissioner is hereby authorized to credit overpayments or charge the following fees associated with this communication to Deposit Account No. 50-0220:
- a. ☒ Additional filing fees under 37 CFR 1.16 for presentation of extra claims.
 - b. ☒ Additional patent application processing fees under 37 CFR 1.17.

Respectfully submitted,

NJ Boddie II

Needham James Boddie, II
Registration No. 40,519

CERTIFICATE OF EXPRESS MAILING

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M.S. Patent Application

NJB/mpm

Date: 7/16/03

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Doc. No. 5175-150

Serial No. TBA

Inventor: Hebrank et al.

Sir: 07-30-03 A09:52 IN
Kindly acknowledge receipt of the accompanying items listed below

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Respectfully submitted,
MYERS BIGEL SIBLEY & SAJOVEC, P.A.
Attorneys for Applicant

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07/17/03